

Conservation Commission, February 28, 2011

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

February 28, 2011

Meeting was called to order 6:24 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Greenbaum, Ms. Scott-Pipes.

Also Present: Paul Shea, Agent, Carol Logue, Secretary,

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Request for Determination: Sheehan, 15 Seagate Circle (enlarge deck/ front & back porch) (cont.)

Pam Sheehan was present at the hearing. After-the-fact filing. Original back deck was 3'x8' expanded to 8'x8'. Contractor was to pull permit, unaware the permit wasn't filed. Front deck enlarged from 4'x8' and extended to corner of house, 4'x17' on the street side. Small deck on pond side was rebuilt. Mr. Shea talked to Neil Duggan, qualifies for a negative 3 determination. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)."

Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Announced that 36 Brunswick required new information in case abutters were present.

Show Cause Hearing: Toth, 172 Cornet Stetson (new build)
Amy & Michael Toth, 27 Lawson Rd and Greg Gibbs, contractor, were present at the hearing. Mr. Shea: There is an approved Order of

Conditions. Have been getting photos and letters from adjacent property owner Mr. Schaffer. There has been ponding at the property line, which Mr. Schaffer is claiming wasn't there before construction started. Talked to Josh Bows from Merrill Associates, the engineer of record. He did a quick inspection. Appears that the driveway grading hasn't been done according to the plan. Mr. Toth and Mr. Shea met on site about January 20 – ponding was visible. Talked about a couple of options, one of which was a pipe and catch basin at the edge of Cross St. If there are any changes to the approved plans, the applicant needs to come back to the Commission. Project is in non-compliance due to drainage issues. You own the plans and Orders, have to build project the way it was approved. Amy Toth: site work not completed, we will certainly comply. Michael Toth: so much snow, swale or catch basin site work hasn't continued. Made it very clear to the neighbor that plans would be followed. Greg Gibbs: Ward Eisenhower came out and surveyed the property, might be off a whisker. Mr. Snow: The orders call for reports to the Commission on a regular basis. Do we have progress reports? Owner is ultimately responsible for the Orders and if they choose to change engineers or consultants, notify Commission. Joshua Bows, Merrill Associates: Contact ceased immediately after the Order was issued. Only contact has been with Paul Shea. Did go to site, but was not hired by this owner. Basically if the site was built according to plan, there should be no problems. Mr. Greenbaum: owner has the option to hire any engineer, right? Right. If it was built differently, someone has to certify that it was built according to the plan or list the inconsistencies. Amy Toth: there has been a ton of water; water used to pond on our property. She questioned Merrill's plan. Mr. Snow: Needs to get resolved. If someone wants to amend the plan, come back to the Commission. The contractor has to follow the Orders and plans if no amendment. Give us a letter listing sequence of work, contractors and contact information. It sounds like the Orders were not even read. Mr. Toth: Ponding was there before house was built. Mr. Shea: Not to that extent. By next meeting submit a letter from an engineer stating everyone has the orders and schedule of work.

Request for Determination: Gianinno, 24 Lowell St (gravel driveway)
Bob Daylor, Neil Tully, Larry Gianinno, and his attorney were present at the hearing. Requesting to extend gravel driveway, at grade, to rear

of property to take kayaks to river. Resource area is land subject to coastal storm flowage and classified as barrier beach. Main access is off Lowell Street. Only 1 red cedar will be removed. Planning to do some landscaping. Issue a negative 3 with planting plan to be submitted. There is a lot of beach grass planted already. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." - A landscape plan shall be submitted and must be approved by the Commission. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Request for Determination: Dinger, 75 Rebecca Rd (dumpster/pod)
Steven Dinger was present at the hearing. Have permits for repairs after storm of December 27. Mr. Shea: building permit came in for storm damage on the ocean side; slider and shingles. Contractor needed a dumpster and put it in, told him to go ahead with project and cover dumpster. Photo shows a pod, which was made part of the determination. Maintain a clean site and keep trash out of the water. Mr. Greenbaum: usually don't allow dumpsters in these areas. Mr. Shea: as long as dumpster is covered and tied down, should be all right. If dumpsters are put on site, they need to file. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." - The dumpster must be properly covered at all times in order to protect the adjacent coastal wetland resource areas. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Menino, 5 Ocean Dr (septic) (cont.)
Project has Board of Health approval. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Wannop, Lot 2 Glades Rd (new build)
Carmen Hudson, Cavanaro Consulting, Jon Studebaker, Axiom

Architects, Attorney Don Nagle, Attorney John Dugan, and Alexandra Wannop, daughter of applicants, were present at the hearing.

Mitigation concerns: Proposing to clean up garbage, debris, and invasive species in a 35 sq. ft area and another approximate 3000 sq. ft. area inside and adjacent to the isolated vegetated wetland and plant native species. Also added a new rain garden. Another concern was the location of the house at the 50' buffer and feasibility of construction, therefore the building footprint was reduced and the siltation fence moved closer to the limit of the 50' buffer. In order to clearly delineate and limit all construction access, the proposed mitigation improvement in that area was removed. The utility trench will be excavated and backfilled daily. Showed proposed area for stockpiling with barrier around it. The site itself is challenging. Mr. Breitenstein is concerned about the 50' buffer and possible blasting for the house. Mr. Shea: if blasting, they will have to do a blast survey. Cohasset would rather chipping. In terms of the wetlands doesn't think it would be affected. Mitigation plantings: reduced to 3000 from 4000. Added another area for a total of 6000 sq. ft plus the cleaning up of debris. Jeff Burek: abutter delivered a letter last week expressing concerns regarding the well. Discussed Board of Health meeting March 21, 2011 and the WPA regarding water supplies, public or private. The proposed leaching field is approx. 30' away. Mr. Burek's septic is 100' away on other side of house. Why can't the project be continued for the final feedback from Board of Health? Ms. Hudson: The irrigation well was approved by DEP. Design has been going forward as if it was an irrigation well. It is a Board of Health issue, not Conservation. Mr. Snow: your plan designates it as an irrigation well. At the time of the septic approval in 2008, the well was in existence. Atty. Nagle: document report determined it was an irrigation well and plan accurately identifies it. No records on file seeking a potable well. If abutter is upgrading the well to a potable well, he has every right. Review with Board of Health and have a response for the Commission. This is our 3rd hearing. Believe applicants have had plenty of time to see Board of Health. Atty. Nagle asked that the hearing be closed. Nothing new is being brought up. Plan is properly identified as an irrigation well, no set requirements. There is no need to continue the hearing. Don't want to lose the sale. Mr. Snow: Sale of property is not our issue. If closed we have to write conditions around that.

Commission's requirement is to protect public and private water supplies. In conclusion there is a tremendous amount of construction in a sensitive area. We can continue to receive information we feel more comfortable with or we can close and possibly deny the project. Would like to think we could come to something that is amenable. If the hearing is closed, we cannot accept any additional information and we have 21 days to set the Orders. We don't want to prolong either, we want to get it right. This is a sensitive site and applicants are asking for just about everything. Atty. Nagle: we want to make sure the Commission is comfortable. Mr. Snow: Mr. Greenbaum: does Title V have a specific distance for a septic from a potable well? Setback for irrigation well is 25', for potable wells 100'. Ms. Hudson: wetland is wetland because of fluctuation of groundwater; by protecting the wetland, we are protecting the well. The group left the room to discuss. They came back and requested to continue to the next meeting and get something from Board of Health. Motion to continue the hearing to March 14, 2011 at 6:30 Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Hall, 34 Ocean Dr (reconstruct & repair existing seawall)

Mr. and Mrs. Hall and Peter Rosen were present at the hearing. Abutters notification was submitted. House has a seawall abutting the beach. In 2003 the seawall was in peril, but in those days repair wasn't permitted. Major nourishment project and planting took place. Nourishment lasted 2 years, eroded away. Wall and dwelling was in peril after the storms in December. Paul Shea looked at the site and an Emergency Certificate was issued to allow stabilization. A fitted stone revetment was constructed; some fill brought in. Used 3 and 4 ton stones, with a relatively low slope and a deeply buried toe. Engaged a structural engineer. Talked to DPW regarding access, used pathway to the north. The pathway filled with sand and regraded for equipment access; after project, it was graded 10' wide for a walkway to the beach. Apparently teens drove vehicles down on the beach, so placed a boulder to restrict that use. Finished the project within the 30 days and the Notice of Intent is in answer to the Emergency Certificate. Since it is adjacent to a right of way, applicant hopes for a continuing condition to allow for repair when necessary. Could allow 5-year Order

and then could request extensions. Or if one pops out, could file for an emergency certificate. No DEP file number. Letter from abutter Mr. Colantonio, 32 Ocean Drive stating he is in favor of the revetment. Bill Clay, 36 Ocean Drive abutter in support of the project. Motion to continue the hearing to March 14, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote. Need DEP # only.

Wetlands Hearing: Coleman, 163 Glades Rd (septic)

Greg Morse and John and Eleanor Coleman were present at the hearing. Abutters notification was submitted. Approved at Board of Health hearing earlier tonight. 4-bedroom single-family dwelling. BVW flagged by Brad Holmes in December. Shows 50' and 100' buffer. Project: Septic tank, pump chamber, pressure-dosed leaching field. Tried to keep it as far from resource as possible; FEMA flood zone X, meet all the requirements of the act and Title V. Concrete patio will be removed and not put back. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Wall, 12 Oceanside Dr (rebuild deck/repair garage after storm)

Brian Maxwell, Mr. Walls' contractor, and Doris Crary were present at the hearing. Abutters notification wasn't submitted, but will be coming. Rebuild deck in same footprint and repair garage wall. Already spoke to Neil Duggan. Deck previously connected to seawall, but will not be again. Mr. Greenbaum: 2" gap in the seawall, serious issue. Abandoning all sonotubes, proposing to install big foots. According to Michael Ball there are 5' big foot footings now. Need existing elevation. Believe it is about 17'. House rebuilt after 1978. Structural drawing shows deck attached to seawall and there should be another set of sonotubes on the plan. Planning on removable panels. Proper structural plan needs to be submitted. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Hallisey, 29 Hawthorne (shed/brick patio/gravel walk, drive, parking/replenish & re-vegetate dune)

Bob Crawford, E.E.T. Inc., John Hallisey and Atty. Bob Allan, also

Hallisey family members and a number of neighbors were present at the hearing. Applicant's representative has proof of postage.

Background: 2001 fire; 2-year process with insurance adjusters; Orders issued in 2004; occupied in 2004. There have been a number of meetings with Bob Crawford and prior agent relative to conditions. Shed authorized in 2007 with approval from the then agent; never any indication from agent that there was an issue. Mr. Crawford submitted application for Certificate of Compliance stating additional work: shed with brick patio, decks were a little different, slight change in grades at the back half of the lot, and no dune planting. Proposed to plant dune with approximately 37 plantings and a 3 – 1/2' walkway to the beach. In December Commission received a notice from Atty. Mitchell that we were to be in court. Technically Atty. Mitchell was looking for Mr. Hallisey to finish the work, but Order of Conditions had expired. Mr. Shea: smooth over sand to similar grade and plant beach grass. Orders called for planting plan, which was never submitted. Basically these plants are plants previously required. When do you plan on planting? As soon as possible. Mr. Greenbaum: did the original plantings go into the passageway? Mr. Shea: they might want to amend what is in the passageway, believe that area in the passageway was American beach grass, shrubs could be done on site. Shed on flat cinder blocks, not tied down. AO flood zone. Atty. Bob Galvin represents Huies and Stevensons. Photos submitted from 2003 showed clearly that vegetation was beyond the property line. Atty. Allan: a little unusual to move outside the property line. Jon Predaris, 57 Ocean Drive: 2 abutters made passageway more restrictive. Their concern is that plantings may block access to the beach, not in concurrence with planting in the passageway, will grown in. Proposal of plantings mostly on Hallisey property, previously planted area leaves an area for walking. Typical walkway/pathway is 2 to 3 feet. Mr. Snow: Leaving passageways totally barren doesn't give them stability, should be planted with vegetation such as beach grass. Passageways are passageways, not a town authorized road. Let's make sure we are consistent with every passageway. Mr. Shea: Trying to get it back to 2003, restore the area; comply and conform to what was approved previously. Plantings will not hinder walking or baby carriages. Atty. Galvin: Restoring back to original conditions stabilizes and protects against storms. Motion to close the hearing Ms. Scott-Pipes. Second

Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Walsh, 36 Brunswick St (install plantings)
Applicant's representative requested a continuance. Abutters notification was submitted earlier in the day. Motion to continue the hearing to March 14, 2011 at 7:30 Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Agent's report: Update: Stone, 28 Dartmouth St. Chris Dealy will request an amendment for the deck. Had meeting with Mrs. Stone, her friend, Chris Dealy, Selectmen John Danehy, Neil Duggan and Frank Snow. Started off with the cost of taking the deck out; charges \$6,000. Went through the whole meeting and Dealy says he's on speed dial to remove the deck. Chris Dealy did not build the deck according to Rockwood's plan. Wouldn't be at this point if he had. In non-compliance with Order of Conditions and building permit. Another project Dealy worked on had problems also; he does whatever he wants. Going to request sonotubes and ask to leave a portion of the deck closest to the house. Neil Duggan was sympathetic, but Mr. Snow asked him what he would do if he didn't follow the rules. They had the option to appeal. Commission wants to be consistent. Half the problem is the contractor who doesn't follow the plan. Mr. Bjorklund: when Shellington was done, because he wanted the deck below the V zone, deck was framed right to the house, went back a week later, the framing was cut with a saws-all. They came back saying it was never connected to the house. Knows it was connected, saw it with his own eyes.

Request for Amendment: Akerblom, 228 Central Ave. (repair foundation wall & floor slab)
Akerbloom's house got hit by the storm; still have an open Order of Conditions. Requesting an amendment for maintenance work. Requires a little more work than what was approved. Might have a problem with the Building Department as to substantial improvement. Motion to accept the amendment subject to approval from the building inspector Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

CORRESPONDENCE

February 8, 2011 – February 28, 2011

1. Recording of OofC for 68-2285 – 206 Front St (in file)
2. Pictures & orders for Walsh, 36 Brunswick St (in file)
3. Planning Board re: Flexible Open Space Development Special Permit, Tilden Woods, 77 Elm St
4. Affidavitt of Service for 163 Glades Rd (in file)
5. Revised plans for 136 Indian Trail (in file)
6. 75 River St – 68-1719 – Revised approved septic plan. Original plan for 4 bedrooms & revised plan is for 3 (in file)
7. MassWildlife News
8. MACC Newsletter – Jan/Feb 2011
9. Notification to Abutters form for McCarthy, 63 Lighthouse Rd (in file)
10. Complaint re: people removing beach rocks very often from Egypt Beach with trucks, buckets, SUV's, cloth bags
11. Planning Board re: 562 & 556 First Parish Rd. COMMENTS no later than Mar 3, 2011.
12. Planning Board agenda for Feb 17, 2011
13. 208 Central Ave. – Permission given to go between 208 and 206 with equipment for walls (in file)
14. Request for CofC for 68-1832 – Burke, 161 Summer St re: septic (in file)
15. Response to Conservation Comments re: Glades Rd – 68-2290 – members have (in file)
16. Background information submitted re: Walsh, 36 Brunswick St – members have (in file)
17. Gil Sullivan re: Walsh, 36 Brunswick opposing plantings, vegetation or fill placed on the property that would extend into the Brunswick Street Extension, similar to activities by the Huies/Stephensons to interfere with deeded rights to use by vehicle or foot (in file)
18. Eileen Smith re: 36 Brunswick same as above. (in file)
19. NOAA Coastal Services Newsletter
20. The Nature Conservancy re: panel discussion “Overview & Importance of Shellfish Reef Ecology & Restoration in MA” – 3/5/11 at Holy Cross College, Worcester
21. LeBlancs re: King, 151R Glades Rd – Picture re: pitcher's net in right of way not owned by the Kings. Seen and has pictures of Dump Trucks putting fill in back yard, fires to kill marsh grass, weed-whacking

and spraying chemicals. (in file)

22. Burek re: potable drinking well and interest of the WPA-private water supply. Letter to BOH re: well (in file)

23. Stamped plans for Struzziero, 14 Oceanside Dr (in file)

24. Correct topo map submitted for 34 Ocean Dr NOI (in file)

25. MassWildlife News

26. Selectmen re: Public Meeting concerning certain streets to be accepted as public ways: Blossom, Cornerstone Lane, Pineview Drive & Pineview Circle

27. FEMA re: new mailing address LOMC Clearinghouse, 7390 Coca Cola Dr, Suite 204, Hanover, MD 21076

28. North River Commission re: 75 Moorland Rd – addition, 2nd principal structure, future detached accessory dwelling – allowed

29. Planning Board agenda for Feb 23, 2011

30. DEP File #68-2295 – Hallisey, 29 Hawthorne St (in file)

31. DEP File #68-2296 – Walsh, 36 Brunswick St (in file)

32. DEP File #68-2297 – Wall, 12 Oceanside Dr (in file)

33. DEP File #68-2298 – Coleman, 163 Glades Rd (in file)

34. Coastal Erosion Control Workshops – Tues, April 5, 2011 – Fee \$30.00 – John Carver Inn, 25 Summer Street, Plymouth

35. Recording of OofC 68-2259 – Foley, 99 Glades Rd (in file)

36. April 2009 letter from DPW re: Brunswick St. Ext/Sign @ Dune – laid out in 1914, recorded in Land Court as a “passageway” (in file)

37. Foundation plans – Akerblom, 228 Central Ave. - Foundation Repair (in file)

38. Recording of OofC 68-2271 – Foley, 99 Glades Rd (in file)

39. NSRWA re: Dues and Expo – Sat, Apr 2, 10-4:00 Norwell Middle School

40. Revised plans for 163 Glades Rd (in file)

41. Request to continue tonight’s public hearing for Walsh, 36 Brunswick St (in file)

42. Abutter to Hall, 12 Ocean Dr – Colantonio, 32 Ocean Dr: In favor of sea wall restoration, offers protection to both the Halls and 32 Ocean Drive. (in file)

43. Aerial photos and Ivas report re: 36 Brunswick & Hawthorne St. prior to construction 2003 and from ocean view; Walsh parking cars and destroying dune and seagrass; what both properties should look like with vegetation. (in file) (not copied)

44. Matthew Mitchell re: 68-1838 NOI for 36 Brunswick St. opposing issuing OofC as proposed by the applicant as it does not return the illegally altered "resource areas . . . to their original condition" (in file)

45. Recording of CofC for 68-2190 - 119 Edward Foster Rd (in file)

Order of Conditions: King, 151R Glades Rd (handicap ramp/brick/asphalt landing/slight grading)

Mr. Greenbaum: would like to see disposal slips and a completion date of May 31. That should be enough time. Should define what pieces of asphalt need to come out. Mr. Bjorklund: can only condition what is on his site, even though he is the one who installed all the asphalt. Can't force him to take out street pavement, and the majority of the problem is in the street. Should have show cause hearings for the abutters of the passageway. ADA requires 32" to 36" for a wheelchair. Leave width at 4'. Motion to condition the project as amended Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Seoane, 136 Indian Trail (new septic)

Motion to condition the project Mr. Greenbaum. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Order of Conditions: Town of Scituate, Cole Parkway (harbor walk)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Hickman, 10 Old Driftway (deck/stairs/paver walkway)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Biviano, 198, 200, 202, 204 & 206 Central Ave. replace/repair rip rap)

Motion to condition the project Mr. Greenbaum. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Amendment to Order of Conditions: Struzziero, 14 Oceanside Dr (extend columns/replace deck)

Motion to condition the project Ms. Scott-Pipes. Second Mr.

Greenbaum. Motion passed by unanimous vote.

Meeting adjourned 9:30 p.m.

Respectfully submitted,

Carol Logue, Secretary